

**UNITED STATES COURT OF APPEALS for the NINTH CIRCUIT**  
**Office of the Clerk**  
**General Information**  
***COUNSELED NON-IMMIGRATION AGENCY CASES***  
**(July 2006)**

**The Clerk's Office**

**1. Main Office - San Francisco**

Mailing Address (U.S. Postal Service)	Overnight Delivery (FedEx, DHL, UPS etc)	Location (Street Address)
Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals P.O. Box 193939 San Francisco, CA 94119-3939	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103-1526	Office of the Clerk James R. Browning Courthouse U.S. Court of Appeals 95 Seventh Street San Francisco, CA 94103

**2. Website**

The Court's website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) is a tremendous resource. On it, you will find copies of the Court's Rules and General Orders, answers to Frequently Asked Questions, directions to the Courthouses, forms necessary to gain admission to the Bar of this Court, and an invitation to join our Pro Bono Program. You will also find links to practice manuals as well as this Court's Dispositions and recordings of oral arguments.

**3. Phone Numbers**

General Information	(415) 556-9800
Appellate Commissioner	556-6220

Attorney Admissions	556-9373
Calendar Unit	556-9780
Circuit Executive	(415) 556-2000
Circuit Mediators	556-9900
Computer Operations	556-9700
Divisional Offices:	
Pasadena	(626) 229-7250
Portland	(503) 833-5300
Seattle	(206)553-2937
Docketing - Civil	(415) 556-9730
Docketing - Criminal/Agency	556-9740
Extensions of Time/Briefs:	
Written Motions	556-9760
14 day Telephone Extension	556-9768
Judicial Misconduct	556-9692
Library	556-9500
Motions Attorneys	556-9890
Operations Assistants (CJA)	556-9771
Procedural Motions	556-9760
Pro Se Unit	556-9380
Records Unit	556-9920
Tours	556-9945

#### **4. Authorities and Resources**

- ❑ Rules of Practice - The Federal Rules of Appellate Procedure (Fed. R. App. P.) together with the Ninth Circuit Rules of Practice (9th Cir. R.) govern practice before this court. Copies of the rules are available on this court's website at [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) and from the Clerk's offices in San Francisco, Pasadena and Seattle. Send a written request together with a self-addressed return mailing label.
- ❑ Other Information - The court's *Immigration outline* provides a comprehensive discussion of applicable law. It can be found on this court's website, [www.ca9.uscourts.gov](http://www.ca9.uscourts.gov) . The American Immigration Law Foundation has published *A Practice Advisory on How to File Petitions for Review* (September 2003) and it too is (with their permission) available on this court's website or at [www.aifl.org](http://www.aifl.org). Finally, the court has prepared a practice videotape which is available through the Clerk's office in San Francisco for \$15.00. Continuing legal education credit for viewing this videotape is available in most jurisdictions.

## **5. Admission to the Bar of the Ninth Circuit**

- ❑ All attorneys practicing before the Court must be admitted to the Bar of the Ninth Circuit. Fed. R. App. P. 46(a) and 9th Cir. R. 46-1.2.
- ❑ If you are NOT already admitted, obtain a form from our website or by calling the number listed above and submit a notarized form to the Clerk's Office in San Francisco together with the admission fee of \$190.00. The check should be made payable to Clerk, United States Court of Appeals. After your application is processed, you will be mailed a certificate of admission.

## **6. Notices of Change of Address**

- ❑ Counsel must inform this Court in writing of any address change. 9th Cir. R. 46-3.
- ❑ The Notice must include the following information:
  - ✓ the case caption;
  - ✓ the U.S. Court of Appeals docket number;
  - ✓ any new telephone number and/or email address;
  - ✓ the name of the party you represent, and

- ☒ the new street address.
- ☐ If you are admitted to the Bar of this Court but do not represent any parties at the time your address changes, you do NOT need to submit an address change.

## **7. Payment of Fee**

- ☐ The \$450.00 filing fee or a motion to proceed in forma pauperis shall accompany the petition for review. 9th Cir. R. 3-1.
- ☐ A motion to proceed in forma pauperis must be supported by the affidavit of indigency found at Form 4 of the Federal Rules of Appellate Procedure.
- ☐ Failure to satisfy the fee requirement or apply to proceed without payment of fees will result in the petition's dismissal. 9th Cir. R. 42-1.

## **8. Motions Practice**

### **A. General Information**

Fed. R. App. P. 27 and 32(c)(1) and 9th Cir. R. 27 govern motions practice and specific types of relief. Some of the basic points include:

- ☐ The rules require an original + four copies of any motion.
- ☐ Enclose an extra copy of the motion and a self-addressed stamped envelope if you are requesting a conformed copy for your files.
- ☐ Neither a notice of motion nor a proposed order is required. See Fed. R. App. P. 27(a)(2)(C)(ii), (iii).
- ☐ Motions may be supported by an affidavit or declaration. 28 U.S.C. §1746.
- ☐ A response to a motion is due 8 business days from the service of the motion. Fed. R. App. P. 27(a)(3)(A). The reply is due 5 business days from service of the response. Fed. R. App. P. 27(a)(4), see *also* Fed. R. App. P. 26(c).
- ☐ A response requesting affirmative relief and/or relief by a date certain must include that request in the caption. Fed. R. App. P. 27(a)(3)(B).
- ☐ A motion should provide the position of the opposing party. See

Advisory Committee Note to Rule 27-1(5). See *also* 9th Cir. R. 31-2.2(b)(6)(statement regarding the position of opposing party or a statement about why that information is unavailable required in motions for extensions of time).

- ❑ Facsimile or electronic filing is permitted only in urgent circumstances and only with advance authorization from staff. 9th Cir. R. 25-3.1.
- ❑ Motions filed **after a case has been scheduled for oral argument, has been argued, is under submission or that has been decided by a panel**, must include the date of argument, submission or decision. If known, you must also include the names of the judges on the panel. 9th Cir. R. 25-4.

**B. Emergency or Urgent Motions - Circuit Rule 27-3**

- ★ **All** emergency and urgent motions must conform with the provisions of 9th Cir. R. 27-3. Motions requesting procedural relief do NOT fall within the types of matters contemplated by 9th Cir. R. 27-3.
- ★ **Prior to filing any emergency motion, the moving party MUST contact an attorney in the Motions Unit in San Francisco at (415) 556-9890.**
- ★ Emergency motions shall be filed in San Francisco. If action is needed on the same or next day, and counsel has not been dilatory in seeking relief, after speaking with the Motions attorney on duty, counsel may be directed to file the emergency motion in one of the divisional offices or, in some cases, with an individual circuit judge. On the other hand, if it appears that the motion can be processed by the monthly motions panel despite the expedited circumstances, counsel will be directed to file the motion in San Francisco.
- ★ When it is absolutely necessary to notify the court of an emergency requiring its attention outside of standard office hours, the movant shall call (415) 556-9895. This line is monitored by court staff. Keep in mind that this line is for true emergencies that cannot wait until the next business day, such as emergencies that involve an imminent execution or removal from the United States.

## C. Motions for Extensions of Time to File the Briefs

- ☐ 9th Cir. R. 27-11 lists the impact of several motions on the briefing schedule.
- ☐ Specific due dates set by the court are not subject to the additional 3-day service time described in Fed. R. App. P. 26(c).
- ☐ The filing of petitioner's brief before the due date does not advance the due date for respondent's brief. 9th Cir. R. 31-2.1.
- ☐ A party may seek ONE of the following:

### ★ Written Extension

- Requests for extensions of more than 14 days will be granted only upon a written motion supported by a showing of diligence and substantial need. This motion should be filed **at least seven calendar days before the due date for the brief**. The motion shall be accompanied by an affidavit or declaration that includes all of the information listed at 9th Cir. R. 31-2.2(b).

- This court will ordinarily make some adjustment to the schedule in response to a motion. See Circuit Advisory Note to Rule 31-2.2. The court expects that the brief will be filed within the requested period of time. *Id.*

### ★ Oral Extension

- If good cause is shown, the clerk may grant a SINGLE extension of no more than 14 days to file an opening, answering or reply brief. 9th Cir. R. 31-2.2(a). You may apply for such an extension by calling (415) 556-9768.

## 9. Briefing Schedule

- ☐ This court sets the schedule at the time the appeal is docketed in this court. You should receive your briefing schedule at the same time you receive this information.
- ☐ If the petitioner files the opening brief earlier than the due date, the due date for the respondent's brief does not advance. It remains due on the date reflected in the briefing schedule. 9th Cir. R. 31-2.1.

- ☐ Motions that stay the briefing schedule are listed in Circuit Rule 27-11.
- ☐ Fed. R. App. P. governs briefing in petitions for review or applications for enforcement of National Labor Relations Board judgments.
- ☐ Specific dates set by court order are not subject to the additional 3-day service allowance provided by Fed. R. App. P. 26(c).

## **10. Record on Review**

- ☐ The content and filing of the record are governed by Fed. R. App. P. 16 and 17. If respondent does not file the record or certified list by the specified date, petitioner may move to amend the briefing schedule.

## **11. Excerpts of Record**

- ☐ This Court requires excerpts of record instead of an appendix. 9th Cir. R. 30-1.1(a).
- ☐ Five (5) separately-bound excerpts of record with WHITE covers shall be filed at the time petitioner files the Opening Brief. Each party shall be served with one copy of the excerpts. 9th Cir. R. 30-1. Please review 9th Cir. R. 30-1.3, 30-1.4, and 30-1.5 to see a list of the specific contents and format.
- ☐ Respondent may file supplemental excerpts and petitioner may file further excerpts. 9th Cir. R. 30-1.7 and 30-1.8.
- ☐ If you are a respondent responding to a Pro Se brief that did not come with excerpts, then your excerpts need only include the contents set out at 9th Cir. R. 30-1.6.
- ☐ If you are involved in an appeal from a district court's review of an agency action, your excerpts shall include the items listed at 9th Cir. R. 17-1.
- ☐ Each volume of excerpts is limited to 300 pages. If the contents of your excerpts exceeds 300 pages, you will need to file the excerpts in multiple volumes.

## **12. Contents of Briefs**

- ☐ Briefs shall comply with the requirements of Fed. R. App. P. and 9th Cir. R. 28 and 32.

- ☐ Numerous briefs are available on Westlaw (the *Briefs Multibase* identifier is BRIEF-ALL). A keyword search will locate briefs addressing issues involved in your case. The Westlaw identifier for the “Federal Immigration Brief” database is FIM-Brief.

### **13. Mediation Program**

- ☐ Civil Appeals Docketing Statements are required in all CIVIL COUNSELED cases **except**: (a) habeas cases (28 U.S.C. §§ 2241, 2254 and 2255) and (b) petitions for Writs (28 U.S.C. § 1651). You may obtain a Civil Appeals Docketing Statement form from the district court clerk or the Ninth Circuit Website.
- ☐ The completed form should be filed together with the Notice of Appeal. Late filed forms should be filed with the Court of Appeals and must include a Ninth Circuit docket number. The docketing statement is used only to assess settlement potential.
- ☐ If you are interested in requesting a conference with a mediator, you may call the Mediation Unit at (415) 556-9900 or make a written request to the Chief Circuit Mediator. Requests for mediation will be kept confidential if so requested.

### **14. Court Calendars**

- ☐ Hearing notices for oral argument calendars are distributed approximately four to five weeks before the date for argument. Generally, cases are heard in the administrative unit where they originate. The Court sits monthly in San Francisco, Pasadena and Seattle. The court sits in Portland every other month, depending on caseload. The Court also hears argument twice a year in Honolulu and once a year in Anchorage.
- ☐ There will only be a change of date or location of oral argument for good cause. Any request to continue an argument date filed within 14 days of the hearing will **ONLY** be granted upon a showing of exceptional circumstances. 9th Cir. R. 34-2.
- ☐ Oral argument will be conducted in all cases **UNLESS** all members of the panel agree that the decisional process would not be significantly aided by oral argument. Fed. R. App. P. 34.



